

DATE: November 19, 1985

TO: M.C. Guaderrama, Deputy Chief of Police

Patricia Tennyson, Associate Director, IRD

FROM: City Attorney

SUBJECT: Local Board Composition Under SB 190

This memorandum is in response to two memoranda (October 3, 1985 - Tennyson; October 15, 1985 - Guaderrama) which asked the following questions as to the Local Board composition:

1. Can other persons, such as elected officials, be substituted for board members specified in Penal Code section 11112.4?
2. Can the ARJIS Board of Directors or the ARJIS Management Committee be administratively determined to be this local board as specified in Penal Code section 11112.4(b)?
3. Can a new subcommittee be created by the ARJIS Board which could meet the definition of this section?
4. Can a board be designated according to the definition in

this section which would then delegate its authority to the ARJIS Board?

It is our conclusion that the statutory language is clear and precise, and provides for no variation in the composition of the board from that specified in Penal Code subsection 11112.4(b).

Senate Bill 190, which creates a remote access network for automated fingerprint files, amends the Penal Code with several sections. Section 11112.4 reads, in pertinent part, as follows:

11112.4. (a) Within each county or group of counties eligible to receive funding under the department's master plan for equipment, which elects to participate in the remote access network, a local board shall be established to determine the placement of RAN equipment within the county, and to coordinate acceptance, delivery, and installation. The board shall also develop any procedures necessary to regulate the ongoing use and maintenance of that equipment, adhering to the policy guidelines and procedures adopted by the department. The local board shall consider placement of equipment on the basis of the following criteria:

(1) The crime rate of the jurisdiction or jurisdictions served by the agency.

(2) The number of criminal offenses reported by the agency or agencies to the department.

(3) The potential number of fingerprint cards and latent fingerprints processed.

(4) The number of sworn personnel of the agency or agencies.

(b) Except as provided in subdivision (c), each local board shall be composed of seven members, as follows: a member of the board of supervisors, the sheriff, the district attorney, the chief of police of the department having the largest number of sworn personnel within the county, a second chief selected by all other police chiefs within the county, a mayor elected by the city selection committee established pursuant to Section 50270 of the Government Code, and a member-at-large chosen by the other members. In any county lacking two chiefs of police, a substitute member shall be selected by the other members on the board. Groups of counties forming a local region shall establish a seven-member

board with each county having equal
represent-
ation on the board and at lease one
member-at-
large. If the number of participating counties

precludes equal representation on a
seven-
member board, the size of the board shall be
expanded so that each county has at least two
representatives and there is a single
member-
at-large.

The questions do not concern validity of the statute or
issues of delegation of police power, but only go to statutory

interpretation. The general rule is that a statute must be given
plain language meaning to determine legislative intent:

A liberal construction does not permit us
to disregard or enlarge the plain provisions of
(a) statute, nor does it go beyond the meaning
of the words used when they are clear and
unam-
biguous It is a prime rule of construction
that the legislative intent underlying a statute
must be ascertained from its language; if the
language is clear there can be no room for
interpretation and effect must be given to its
plain meaning.

Outboard Marine Corp v. Superior Court, 52
Cal.App.3d 30, 40 (1975); Accord, Caminetti v.
Pac. Mutual L. Ins. Co., 22 Cal.2d 344 (1943).

Once the legislature has clearly manifested its intent, that
becomes controlling. A local agency or authority may not
construe a statute so as to be at variance with the clearly
expressed intent of the Legislature.

It is a cardinal principle that the primary
rule of statutory construction to which every
other rule must yield is that the intention of
the Legislature should be given effect; and the
language of any statute and provision therein
may not be construed so as to nullify the will
of the Legislature

California Sch. Employees Assn. v. Jefferson
Elementary Sch. Dist., 45 Cal.App.3d 683, 691
(1975).

When the language of a statute is clear, it should be
construed to effect, rather than defeat, its evident object and
purpose. East Bay Garbage Co. v. Washington Township
Sanitation Co., 52 Cal.2d 708, 713 (1959). In this respect,
attempts to substitute another group of persons, or another
board, or to otherwise avoid the plain provisions of the law

would be difficult to support as effecting the evident object.

Implemental portions of statutes have been recognized as indicating legislative intent. "(W)here the legislature has clearly set forth the purpose of the acts and has enacted a plan or design for its accomplishment, the implemental portions of the act must be construed so as to achieve the objective ..."

Cal. Toll Bridge Authority v. Kuchel, 40 Cal.2d 43, 53 (1952).

The questions posed appear to ask what latitude there is for interpretation of the board composition provisions. The language used in section 11112.4(b) is undeniably clear. "If the language of a statute is clear, there can be no room for interpretation, and effect must be given to the plain meaning of the language." People v. Gaines, 112 Cal.App.3d 508, 517 (1980); Skivers v. State of California, 13 Cal.App.3d 652, 655 (1970).

Perhaps the simplest answer to the first question, as well as to the follow on questions, is the oft cited maxim: "A legislative enactment should be construed in accordance with the ordinary meaning of the language used and it should be assumed that the Legislature knew what it was saying and meant what it said." People v. Rodriguez, 222 Cal.App.2d 221, 227 (1963); accord: Tracy v. Municipal Court, 22 Cal.3d 760, 764 (1978); Pieri v. Fox, 96 Cal.App.3d 802, 809 (1979).

Based on the above, it is our opinion that the Local Board composition must be those members specified in section 11112.4(b), and all four questions must be answered in the negative.

JOHN W. WITT, City Attorney

By

Grant Richard Telfer

Deputy City Attorney

GRT:ls:920(x043.2)

ML-85-79